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ABSTRACT

The report discusses issues related to special education financing and proposes nine actions to remedy problems in this area. The commission's members included leaders from professional organizations as well as representatives of federal, state, and local groups responsible for public education. The first six recommendations focus on improved administration and management of special education by state, federal, and local education officials. Among recommendations are: establishment of more flexible and individualized options within the regular education program; clarification of the financial responsibilities for related services mandated by P.L. 94-142, the Education for All Handicapped Children Act (EFAHCA); development of community-based residential programs; reduction of costs related to parent-school conflicts resulting from the implementation of the EFAHCA; the use of discretionary resources to encourage more effective administrative policies and practices at state and local levels; and development of interagency coordination at both state and local levels. Three additional recommendations focus on the need for continued support of the EFAHCA and for increased federal funds for early intervention. (CL)

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**THE REPORT OF
THE COMMISSION ON THE
FINANCING OF A FREE
AND APPROPRIATE
EDUCATION FOR
SPECIAL NEEDS
CHILDREN**

March 1983

EC152700

Drawings by Martha Perske, Perske and Associates, Darien, Connecticut.

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WASHINGTON, D.C. 20515

March 16, 1983

Dear Colleague:

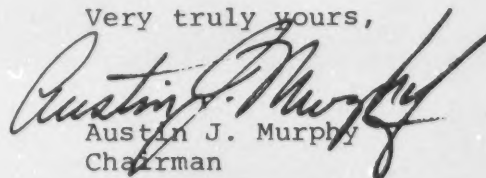
It is my pleasure to share with you the recent report of the Commission on the Financing of a Free and Appropriate Education for Special Needs Children. This document is very timely and should be of great interest to both you and your staff.

During the last Congress my Subcommittee heard consistently from the Administration that there was a need to significantly alter the existing statute and regulations for the Education of the Handicapped Act. However, time and again, witnesses came before us and testified to the importance of this legislation and the need for continued strong federal involvement.

I believe that during these times of decreasing financial resources at both the federal and state levels, it is critical that we seek to maintain and improve programs such as this which contribute to the development of a self-sufficient, tax-paying citizenry. This report, which was developed over the last year by a Commission of local and state educators, researchers and policy analysts, seeks to dispel some of the "myths" surrounding the implementation of P.L. 94-142, the Education for All Handicapped Children Act. It challenges states to formulate new policies and administrative strategies to utilize existing resources more effectively in providing appropriate education programs for handicapped children.

It is my hope that this report will provide some thoughtful insights for consideration by both Congress and the Administration over the next few years as we attempt to improve the implementation of this vital statute.

Very truly yours,


Austin J. Murphy
Chairman

ACKNOWLEDGEMENT

The Commission members express their appreciation to Research for Better Schools (RBS), Philadelphia, Pennsylvania for its able assistance in staffing the Commission and assuming responsibility for the production of this report. In particular, the Commission is grateful to Nancy Zollers of RBS for the time she gave to the work of the Commission, drawing together the initial ideas of the Commission, preparing resource books for the Commission, staffing Commission meetings, and editing and managing the production of the Commission's report. John Hopkins and Richard McCann of RBS also substantially assisted the Commission's activities.

The Commission wishes to acknowledge the effort of Commission members Lorraine McDonnell and Martin Gerry who prepared extensive draft material for Commission review and contributed to the Commission's report. It also acknowledges the role of Jean Garvin and Philip Jones, who chaired the Commission's summer meeting.

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RECOMMENDATIONS OF THE COMMISSION ON THE FINANCING OF FREE AND APPROPRIATE EDUCATION FOR SPECIAL NEEDS CHILDREN

EXECUTIVE SUMMARY

As a result of the passage of numerous state special education laws during the last twenty years, along with the enactment of the Education For All Handicapped Children Act (P.L. 94-142) in 1975, local school systems have been confronted with vastly expanded programmatic and fiscal demands related to the provision of a free, appropriate public education to each handicapped child within the school district.

The Commission on Financing of a Free and Appropriate Education for Special Needs Children was established to investigate the issues relating to the financing of special education and to prepare a report of its findings for the Select Education Subcommittee of the Committee on Education and Labor of the U.S. House of Representatives.

The Commission on Financing of a Free and Appropriate Education for Special Needs Children, with a membership of twenty experienced leaders drawn from professional organizations and all Federal, state and local groups responsible for public education, focused on the resource implications of Federal, state and local mandates to provide a free and appropriate education to handicapped children.

The Commission's fact gathering and deliberation have resulted in a report for the Congress on the current problems and opportunities facing state and local agencies as they implement Federal and state requirements. The Commission report provides the Congress and the public with practical assistance in formulation of effective policies and administrative strategies to better marshal existing resources for handicapped children.

The Commission concluded that much can be done to improve the administration and management of the special education activities required under the law. Upon examination of the administrative and management issues, the Commission concluded that Federal leadership was a critical factor in the success of special education practice in the country. That conclusion regarding Federal leadership is the basis for recommendations for full Federal funding of P.L. 94-142, Federal executive branch leadership in assistance and enforcement, and Congressional support for P.L. 94-142 and its discretionary programs.

In this report the Commission presents nine priority recommendations and outlines approaches and strategies to further stimulate action in connection with those recommendations. The first six recommendations are directed toward improved administration and management of special education by state, Federal and local education officials. These six key recommendations are:

- I. SEAs and LEAs should establish more flexible and individualized options in the regular education program.
- II. States should develop standards which define the financial responsibility of LEAs for the related services mandated by P.L. 94-142, and interagency agreements which ensure ready access to the full range of financial resources available under various state and Federal health and human service programs for such mandated services. The Department of Education should enforce the requirements which exist under Section 504.

- III. SEAs and LEAs should initiate interagency coordination at both the state and local levels in order to spread the financial burdens associated with low-incidence handicapping conditions and unusually expensive related services among cooperating agencies.
- IV. States should develop community-based residential programs in coordination with school district special education programs in order to avoid the high costs of unnecessary institutionalization.
- V. SEAs and LEAs should initiate conflict resolution strategies to improve parent-school communication, encourage joint decision-making, and reduce unnecessary conflict-related expenses.
- VI. Congress and the Department of Education should target a portion of current discretionary resources to encourage SEAs and LEAs to use more effective administrative policies and practices.

The Commission also offers specific strategies to carry out its recommendations. For example, strategies for clarifying agency financial responsibility include:

- a) Local education agency financial responsibility for related services.
- b) Arrangements with other agencies for related services to children in non-residential settings.
- c) Fiscal responsibility for education and related services to children in residential settings.

The final three recommendations call for continued support for P.L. 94-142.

- VII. The Congress should preserve the P.L. 94-142 statute without change, because it is based on sound equity principles and is working well to ensure a free, appropriate public education for all handicapped school-age children.
- VIII. The Congress should increase current P.L. 94-142 (Part B) appropriations, and both Federal and state governments should allocate new funds to support critical intervention strategies for at-risk children below school-age.
- IX. The Federal government should fully fund the EHA discretionary program to support research, training, model development and dissemination programs which together work to ensure that every handicapped child receives an appropriate education.

Together the nine recommendations form an approach to special education financial issues which involves all three levels of government as well as educators themselves.

The value of this report, beyond its substantive recommendations, is in the consensus that was achieved by a diverse group of educators, researchers and policy analysts. The Commission sincerely hopes that this report will be a springboard and guide for action in providing every handicapped child in the nation with a free, appropriate education.



INTRODUCTION

In April 1982, as part of its continuing effort to improve services for handicapped children, the Select Education Subcommittee of the House Education and Labor Committee identified two questions related to the operation of the Education for All Handicapped Children Act (P.L. 94-142) which required in-depth exploration:

- (1) What can state, Federal and local agencies do under existing law to assure "free, appropriate public education" to all handicapped children and at the same time be responsive to current pressures on spending for public schools and to the prospect in the immediate future of more limited public resources for education?
- (2) What should Congress do to further support the efforts of state, Federal and local agencies to assure that equal educational opportunity for all handicapped children is fully realized?

The Commission on the Financing of a Free and Appropriate Education for Special Needs Children was established to examine current financing problems and make appropriate recommendations to Federal, state and local policymakers. (A list of the Commission members is included on page 36.)

During the past year, the Commission examined a variety of cost issues related to providing all handicapped school-age children with the range of services and due process guarantees that constitute a "free, appropriate public education."

The Commission concentrated its efforts on issues related to the financing of special education and the implementation of P.L. 94-142. This limitation prevented it from addressing many other special education matters. Consequently, this report should not be viewed as an attempt to address all of the various and important special education issues in the country.

The Commission has not recommended major new initiatives. Instead, it has focused on areas where new administrative approaches and increased intergovernmental cooperation is likely to produce substantial gains for handicapped children and their families. The members believe that their ability to reach agreement on priorities reflects a consensus which has developed within the public and among policymakers and practitioners, and hope that by making the consensus explicit, this report will stimulate action.

The current status of handicapped programs, trends in the population of handicapped students, and in the cost of providing them a special education, and the broad trends in American public education form the context for the Commission's recommendations.

THE CURRENT STATUS OF SPECIAL EDUCATION

In less than ten years, education of handicapped children has changed dramatically, largely as a result of the mandates enacted during this period. With the passage in 1975 of P.L. 94-142 and its predecessor, the 1974 amendments to the Education of the Handicapped Act (EHA), Congress granted to all school-age children the right to a free, appropriate public education. This right, a condition for state receipt of Federal funds under P.L. 94-142, was also established under broader civil rights legislation (Section 504 of the Rehabilitation Act of 1973) as a condition for state education agencies' receipt of any form of Federal assistance. In 1977, final regulations implementing both statutes were issued, defining the right to a free, appropriate public education in public elementary and secondary schools. The regulations, promulgated under the EHA, detail the nature and extent of this right. At present, all states (except New Mexico) and the District of Columbia are participating in programs funded under the EHA and are subject to the regulations which apply to that Act.

These regulations require that each handicapped child of school age be offered, at no cost to the student or the parents, a free ap-

appropriate, public education including those special education and related services needed by the student. These services are to be described annually in an individualized education program (IEP) that is developed by school officials in consultation, whenever possible, with the child's parents. P.L. 94-142 also requires that handicapped children be educated in the "least restrictive environment" possible—that is, they should be educated in regular schools and classrooms unless the educational services the child needs cannot be provided there.

The legal protections guaranteed under P.L. 94-142 are designed to assure equal access of handicapped children to the special education and related services that they need. Many states provided such services for decades prior to the passage of P.L. 94-142. Special classes for the physically handicapped and mentally retarded expanded in the 1960s and early 1970s. State laws and judicial decisions varied from state to state, but, by the time of the passage of P.L. 94-142, almost all states were providing some educational services to school-age handicapped children. In fact, the states laid the groundwork for Federal legislation by demonstrating both that the education of even the most severely handicapped student was possible and that new Federal funds were needed to help serve all of the additional handicapped children entering public schools.

Since the passage of P.L. 94-142, the Federal government's financial role has been secondary to that of the states. For example, in 1981, out of an average total expenditure of \$3,500 per handicapped child, the Federal contribution was slightly less than \$250. The average state expenditure was nearly \$900 per handicapped child; the balance was provided by local funds.

POPULATION AND COST TRENDS

The number of children identified as handicapped and receiving special education and related services has increased continuously since the passage of P.L. 94-142. In the 1980-81 school year, 4,189,478 handicapped children were provided special education services in the District of Columbia and the 49 states participating in the P.L. 94-142 state grant program. This represents an increase of 480,890 students, or thirteen percent, since the first child count in 1976.

During the last six years, the financial impact of these new Federal laws has been studied widely. Since education agencies' accounting procedures are seldom based on particular types of handicapped children or unique instructional programs, costs for personnel, direct services, and transportation for handicapped students are commingled with budget categories for non-handicapped students.

As a result, actual "costs" directly linked to the obligation to provide a free, appropriate education (i.e., costs of special education, related services, and due process guarantees) are often difficult to determine. Special education finance studies (e.g., Hayes, 1970; Rossmiller & Frohreich, 1979) offer two general findings: (1) the costs of special education within any given category of handicapping condition vary considerably, and (2) the costs of providing special education are not necessarily related to the quality of program nor are they a predictor of students' likely achievement.

Based on full-time equivalents (i.e., 30 hours per week for one student), the range of yearly costs has been found to be \$4,675 to \$5,261 for a full-time student in a resource room, and \$2,670 to \$2,772 for a full-time student in a self-contained classroom (Rossmiller & Frohreich, 1979). Studies on the costs of special education reveal that variation exists in per-pupil costs across districts and within particular handicapping conditions. In looking at possible factors to account for the differences in cost between regular and special education, the most significant factor identified was the cost of necessary support services (e.g., psychologists, social workers). The least influential factor was materials and equipment exclusively intended for special education (Reger, 1979).

A major finance study recently completed by the Rand Corporation (1981) examined the costs of providing special education and related services in 50 local education agencies (LEAs) and 25 affiliated intermediate or cooperative regional education agencies in 14 states. According to the Rand study, of the average total cost of services provided to handicapped children (\$3,500), the average cost of instruction by special education teachers in 1977-78 was only \$551. During the same period, the total Federal contribution per handicapped child was \$159.

In general, Rand found that the cost of direct instructional services was proportionate to the severity of the handicap. For example, the average instructional cost for a blind student was reported to be \$2,516 and for a deaf student \$2,336, as compared to \$813 for a learning disabled student and \$897 for an educable mentally retarded student. The study also concluded that the more restrictive the environment, the more costly the instructional services. Thus, on the average, instructional costs for a full-time placement in a special class were found to be higher per handicapped pupil (\$1,578) than for a regular class placement with a part-time special class (\$794).

In addition to receiving direct instructional services, students in special education receive ancillary services. The Rand study reported

that the national average cost of providing ancillary services was \$61 for non-handicapped children (e.g., counselors, librarians, nurses) and \$191 for handicapped children.

Although the additional costs associated with serving handicapped children vary greatly by type of handicap and service provided, it is clear that these costs have greatly increased the financial requirements of states and local school districts.

In contrast to the costs of serving handicapped children in public school, the annual cost of educating the very small group of handicapped students who are placed in private residential facilities often exceeds \$25,000 per child. Even the average cost of serving the majority of handicapped students within the public school system is slightly more than twice the cost of serving a non-handicapped child (Kakalik, et al., 1981).

Most states and local districts have been able to meet the costs of basic instructional and related services without serious strain on their total education budgets. However, the financial burden on local districts has increased and few public agencies outside of education have assumed responsibility for handicapped children. Various health and social welfare agencies have assumed that the costs of all related services should be borne by public education, despite entitlements for handicapped children under some non-education programs like Title XIX of the Social Security Act. This has created serious problems for local school districts when children require expensive related services or are placed in residential facilities.

GENERAL TRENDS IN PUBLIC EDUCATION

What happens to special education programs greatly depends on larger trends and conditions within American public education. The fiscal status of public education, the level of public support, the strength and direction of its leadership, and major new educational initiatives all shape the context within which special education must operate. In making its recommendations, the Commission has kept these larger trends in mind.

Perhaps the most obvious trend is the fiscal retrenchment in public education. Public education's financial problems began in the late 1970s, as enrollments declined but educational costs remained high. The picture has become bleaker over the past two years as states' financial situations worsened. Until recently, states were the most fiscally stable level of government, with some states enjoying an annual budget surplus. This situation has now changed. A number of states are facing an economic turndown and others are forced to operate under fiscal austerity. The fiscal condition of state govern-

ments is now such that according to the National Governors Association, 30 states ended FY 1982 with an actual deficit or with a surplus of one percent or less. Projected deficits for 1983 are higher. As a result, state aid for education whether held level or decreased, is losing out to inflation.

A second important trend is the Federal government's attempt, over the past two years, to reduce its role in education. The Federal government has decreased funds appropriated for existing educational programs, consolidated a number of categorical programs (most notably, Chapter 2 of the ESEA), and simplified or reduced program regulations. The full impact of these steps will not be felt until 1984. However, in light of the lack of Congressional interest in consolidating major programs like P.L. 94-142 and ESEA Title 1 (now Chapter 1), and the nearly unanimous opposition to proposed changes in Federal regulations, it appears likely that the Federal role in education will be maintained.

Severe fiscal retrenchment and a diminished Federal role can only weaken public education in American society. Despite this discouraging possibility, there are signs of a continuing interest in improving the quality of public education. Much of the leadership is coming from state officials. In the last decade, as student achievement scores have fallen, truancy and dropout rates increased, and public support for the schools diminished, state legislators have displayed interest in the amount of state funds appropriated for schools and how that money is being spent. The first sign of this concern for accountability appeared in the minimum competency testing legislation enacted in more than two-thirds of the states over the past six years. Since then, state-level concern for quality education has broadened to include revised teacher certification standards, staff development programs, state assistance in local planning and curriculum development, and a variety of other efforts aimed at improving local schools. Policymakers and practitioners alike now realize that fiscal retrenchment demands an active search for more effective ways to do more with less. There is no question that a serious fiscal crisis currently exists in public education and that states and local districts are now receiving less assistance from the Federal government. At the same time, a strong sense of hope pervades public education; now that the growth pains of the 1960s and 1970s are over, more attention is being paid to quality education.



RECOMMENDATIONS FOR IMPROVING THE FINANCING OF SPECIAL EDUCATION

Following examination of research and other information on the implementation of P.L. 94-142 in states and local school districts, the Commission is convinced that financing problems related to the implementation of P.L. 94-142 can be effectively solved. To do so will require a combination of administrative, programmatic, and financial strategies. These strategies involve a better relationship between regular and special education and clarification of the services required under the law, more efficient allocation of the costs of providing such services among state and local education agencies, and a coordinated use of existing resources from a variety of other Federal and state sources. A detailed discussion is provided below of six specific strategies which the Commission is recommending. Briefly, these strategies are:

- I. State education agencies (SEAs) and LEAs should establish more flexible and individualized options in the regular education program.

- II. States should develop standards which define the financial responsibility of LEAs for the related services mandated by P.L. 94-142, and interagency agreements which ensure ready access to the full range of financial resources available under various state and Federal health and human service programs for such mandated services. The Department of Education should enforce the requirements which exist under Section 504.
- III. SEAs and LEAs should initiate interagency coordination at both the state and local levels in order to spread the financial burdens associated with low-incidence handicapping conditions and unusually expensive related services among co-operating agencies.
- IV. States should develop community-based residential programs in coordination with school district special education programs in order to avoid the high costs of unnecessary institutionalization.
- V. SEAs and LEAs should initiate conflict resolution strategies to improve parent-school communication, encourage joint decision-making, and reduce unnecessary conflict-related expenses.
- VI. Congress and the Department of Education should target a portion of current discretionary resources to encourage SEAs and LEAs to use more effective administrative policies and practices.

RECOMMENDATION I
ESTABLISH MORE
FLEXIBLE AND INDI-
VIDUALIZED OPTIONS
WITHIN THE REGULAR
EDUCATION PROGRAM

In reviewing information concerning the operation of current special education programs, the Commission noted that the Federal government and many state and local education agencies appear to have given little attention to two economic ways of achieving the goals of the education program for the handicapped. First, very substantial economies of time, effort, and money can be achieved simply by expanding the instructional options that are included in the "regular" education program. Second, SEAs and LEAs can develop time-limited, intensive special education strategies for those students who do require services not available in the regular program. Instead, due to historical and administrative factors, special education has been viewed as a program separate from and competing with regular education. Many times it has been defined more in terms of the physical and mental characteristics of children enrolled than in terms of the specially designed instruction and services that are available as a support to the general program being offered by the school district. Consequently, handicapped children are often regarded as "assigned" to special education in a way which reinforces pro-

grammatic separation and eliminates demands on general education programs for increased flexibility and inclusiveness.

A brief review of the history of Federal involvement through categorical grant programs can illustrate present dilemmas. Both P.L. 94-142 and Section 504 of the Rehabilitation Act of 1973 (with their implementing regulations) assumed that previous Federal education legislation had granted to non-handicapped children a *legal right* to a "free, appropriate public education," and thus the same assumption of legal right was constructed for handicapped children. The assumption was, and is, simply wrong. Neither Title I of ESEA nor any other piece of Federal legislation created an entitlement to a free, appropriate public education.

One result of this misassumption is that differences in educational treatment have been created among children whose educational needs lie on a single continuum. Children labeled as handicapped have been given a legal right to a whole range of services to which educationally disadvantaged children, not so labeled but differing little in their educational needs, seldom have access. Thus, non-handicapped, educationally disadvantaged students have neither the reality of a free, appropriate public education, nor (in Federal legislation) a legal right to demand it.

Another consequence is that parents of educationally disadvantaged children are being confronted with the choice of having their child labeled as handicapped, and thus eligible for needed services, or eschewing the label and running the risk of competing for scarce and fragmented special project resources.

A third consequence is that the definitions of handicap are continuously being broadened, by parents to obtain the services needed by their child, and by teachers trying to obtain placement elsewhere for "hard-to-teach," behaviorally difficult, and non-conforming children.

As the population of handicapped children has expanded over the last five years, three interrelated changes have occurred: (a) the total amount of Federal special education funding has remained approximately the same, thus creating a noticeable drop in the Federal share of overall special education costs; (b) regular educators increasingly view special education as a place for the "hard-to-teach," behaviorally difficult, or non-conforming child; and (c) parents are finding themselves confronted with having to label their child handicapped as a precondition to obtaining needed services. As a result, the distinction between the general population of children needing individualized educational services and those handicapped children

entitled to services under P.L. 94-142 has become increasingly blurred. Parents of other educationally disadvantaged students are having to choose between accepting the handicapped label and the corresponding right to needed services or running the risk of competing for scarce and fragmented special project resources.

The Commission believes that the statutory barriers between special education and regular education must be lowered. Children who are hard-to-teach must not be allowed to become *ipso facto* handicapped, and children who are handicapped must not be allowed to become permanent special education clients. The Commission notes that significant pressure currently exists within many school systems to send all difficult or needy children to special education classes, rather than to respond with improved diagnostic procedures and innovative instructional strategies for use within the regular classroom setting. In addition, the Commission believes that movement from regular education status to special education status should not be a permanent or one-way process. Special education means "specially-designed instruction" to meet the "unique needs" of a handicapped child. For many handicapped children, specially-designed instruction may not be needed or may be needed only temporarily as the child develops and the regular education environment becomes flexible and responsive.

Therefore, the Commission recommends that the provision of service to handicapped students within the regular education program and in the regular classroom be strengthened as follows:

SEAs and LEAs should adopt rigorous requirements that the needs of students be met in regular programs before any formal special education identification or evaluation occurs. These should include formal meetings among district administrators, teachers, and parents to design and test individualized education programs within the regular education context;

SEAs should provide technical assistance to those districts seeking improved regular program alternatives as a substitute for some special education services. This type of assistance, and the design of more responsive programs for special education students returning to the regular classroom, should also be high priority needs for state comprehensive systems of personnel development;

The Department of Education should clarify existing P.L. 94-142 regulations to permit children exiting from special education programs to continue for a period of years to be included in the P.L. 94-142 child count, and should improve the ability of local school systems to integrate administratively the current variety of categorically funded special programs by

issuing formal policy guidance on the coordinated use of Chapter 1, Vocational Education, and P.L. 94-142 funds; and Congress should encourage states to develop Federal, state, and locally-funded general, compensatory, and remedial education programs to maintain slow learners and other children experiencing learning problems in regular classrooms by enacting legislation to ease some of the current rigidity within Federal categorical programs.

RECOMMENDATION II

CLARIFY AGENCY FINANCIAL RESPONSIBILITY FOR SERVICES

The Commission recommends that three approaches be used to clarify the financial responsibilities of state and local education, human service, and health agencies for services mandated by Federal and state special education laws.

Define Local Education Agency Financial Responsibility for Related Services

Related services provided to children in special education (i.e., services to which a child has a right) vary significantly across states, districts, and individual children. This is the result of an ambiguous Federal standard and the lack of state policies. The crux of the problem rests with the interpretation of the phrase "required to assist a child to benefit from special education." According to the current EHA regulations, this is the standard which a related service must meet in order to be considered a required part of a free, appropriate public education. Competing interpretations have led to demands for a variety of professional services that a child may need, but to which he or she may not be entitled under the law. In other cases, resources formerly used by public and private agencies to meet the needs of school-age handicapped children have been redirected elsewhere under the presumption that schools are now obligated to provide such services (often called the "first dollar" concept).

In order to properly define the legal and fiscal responsibility of LEAs for the costs of related services, it is essential that standards be developed to define which related services are "necessary for a child to benefit from special education." The purpose of such a standard is not to constrain artificially the determination of those services needed by a handicapped child, but rather to separate those services a child needs (and may be eligible to receive under a variety of programs) from those services which *must* be provided in order to assure that a child is provided a free, appropriate public education.

The Commission does not believe that any changes are needed in the current law or regulations. Rather, the Commission recommends that each state education agency, consistent with state educational

philosophy and objectives, articulate its own definition within the current law.

One approach, developed by members of the Commission, would call for a local education agency seeking to determine whether a service needed by a handicapped child is a mandated "related service" to which the child is entitled under P.L. 94-142 to address three questions:

- (1) Is the service itself an integral part of an educational objective?

For example, speech therapy is an integral part of an educational objective in most states (i.e., oral English proficiency and clarity).

- (2) If the child left school and did not continue educational activity (e.g., reading instruction), would the child cease to need the service with the same frequency and intensity?

For example, in many instances a child receiving occupational therapy might not continue to need that service at the same intensity or focused on the same skill areas if he or she left school and did not continue educational activities.

- (3) In order to be effective, must the service be provided to the child during school hours or within school facilities?

For example, if a child needs catheterization every four or five hours, the service must be provided during school hours in order to be effective.

If any of these questions is answered affirmatively, then the service should be considered to have an educational purpose, and considered a related service within the meaning of P.L. 94-142. If the answer to these questions is negative, then the service should not be considered one to which a handicapped child is legally entitled as part of a free, appropriate public education, because it is not related to an educational purpose.

Whether this or some other approach would best define the limit of educational agency obligations is a matter for each state to decide. The Commission finds that sufficient flexibility exists within current law and regulations to permit state education agencies to differentiate more clearly between mandated and non-mandated expenditures.

Therefore, in order to improve the fairness and efficiency of current financing systems, the Commission recommends that:

SEAs should develop and adopt state standards consistent with P.L. 94-142 requirements through which LEAs can determine on a day-to-day basis the nature and degree of LEA and SEA

financial responsibility for any "related service" proposed for an individual handicapped child; and

The Department of Education should provide useful technical assistance to SEAs seeking to develop state standards interpreting P.L. 94-142 related service requirements.

Negotiate With Other Agencies Arrangements for Sharing the Costs of Related Services to Children in Non-Residential Settings

Programmatic and fiscal responsibilities for providing special education services to handicapped children in non-residential settings are borne overwhelmingly by LEAs. To pay for these services, LEAs use a combination of Federal, state, and local education dollars.

The Commission believes the funds currently appropriated under several Federal and state health, rehabilitation, and social service programs could be used to support related services for handicapped children enrolled in local public schools. These funds are available through:

- (1) Title V (Maternal and Child Health) of the Social Security Act;
- (2) Title XIX (Medicaid/EPSTD [Early and Periodic Screening, Diagnosis, and Treatment]) of the Social Security Act;
- (3) The Rehabilitation Act of 1973;
- (4) Title XX (Social Services) of the Social Security Act;
- (5) Title XVI (SSI-D [Supplemental Security Income—Disability]) of the Social Security Act;
- (6) Title II and Title XVIII (Disability and Health Insurance for the Disabled of the Social Security Act); and
- (7) The Community Mental Health Systems Act.

Despite the multiple entitlements of handicapped children to these funds and services, the LEA in most states continues to be assigned full responsibility for the costs of all related services. The use of funds administered by other agencies (e.g., Title XIX of the Social Security Act) to finance some related services for eligible handicapped children may be a much better resource decision for the state than using state and Federal education funds, because many Federal health and welfare programs have a favorable Federal-state match.

The Commission found three major reasons for the lack of widespread use of cost-sharing arrangements. First, LEAs in most states are resigned to the interpretation of current law that they have full responsibility for the costs of all related services provided to children in their districts. Second, states have not sufficiently fostered

the development of state-level structures and procedures to facilitate such cost-sharing arrangements. Third, the Departments of Education and Health and Human Services have failed to enforce adequately Section 504 of the Rehabilitation Act of 1973, which is one of the critical incentives for the development of such state and local cost-sharing arrangements among responsible agencies and programs.

Therefore, in order to spread the costs of providing related services to children in non-residential settings among LEAs and other state and local agencies, the Commission recommends that:

SEAs and LEAs should negotiate cooperative interagency arrangements with state and local human service and health agencies under which such agencies agree to assume financial responsibility for some or all of the cost of providing particular "related service" to handicapped children otherwise entitled to that service from such agency; and

Federal monitoring of state health and social service agencies under Section 504 of the Rehabilitation Act of 1973 should be strengthened and focused particularly on these agencies' financial responsibilities to handicapped children.

On the following pages are two charts which indicate which services can be supported under a variety of state and Federal programs. These charts illustrate a comparison of the principal eligibility criteria for those programs.

The Commission is aware that many of these Social Security Act programs are facing recommended Federal cutbacks. This simply means that SEAs must be more aggressive and persistent in their justifiable pursuit of these funds and the Congress and administrators of these programs must seriously consider the impact of further cuts on the educational opportunity for handicapped children.

Clarify Fiscal Responsibility for Education and Related Services to Children in Residential Settings

One of the areas of greatest concern to state and local education agencies is the assignment of fiscal responsibility for education and related services provided handicapped children in non-public residential settings. In general, LEAs believe they must bear an inequitable portion of the costs associated with residential placement. To support their belief, they provide examples such as the following.

A child placed in a facility through Family Court or other agency may be assigned to an educational program without consultation with the LEA, yet the LEA must bear the costs of that educational program;

A family who cannot care for their severely disabled child may be provided no options in their community other than the placement

Chart I

Educational Costs Which Can Be Shared Under Several Federal Programs

PERSONNEL:	Federal Funds					
	P.L. 94-142	Title XIX (EPSDT) SSA*	Title V SSA Services	SSI-D (SSA)	Title XX (SSA)	Vocational Rehabilitation
Educational Consultant	X					
Adaptive P.E. Teacher	X					
Assessment Teacher	X					
School Psychologist/Psychiatrist	X	X				X
Physicians	X	X	X	X	X	X
Nurses	X	X			X	
Social Workers	X	X		X	X	
Speech Pathologist	X	X				X
Vocational Assessment Experts	X					X
Occupational Therapists	X	X				X
Physical Therapists	X	X				X
Audiologist	X					X
TRANSPORTATION	X	X		X	X	X
MATERIALS AND SUPPLIES	X	X	X	X		X
INTERPRETER/TRANSLATOR	X		X	X		X

* "SSA" means the Social Security Act

Chart II

Related Services Funds Available Through Several Federal Programs

Eligibility Factors	State Education Funds and Funded Services	P.L. 94-142	Title XIX (EPSDT) (SSA)* Early and Periodic Screening, Diagnosis and Treatment	Title V Services Social Security Act	SSI-D (SSA) Supplemental Security Income - Disability	Title XX (SSA) Social Security Act	Vocational Rehabilitation
Age(s)	Three through twenty-one mandated eligibility; birth through twenty-one eligibility is permissive for children with serious handicapping conditions	Three through twenty-one	Under age twenty-one	Under age twenty-one	Under age seven for actual service delivery; between the age of seven and sixteen for referral services	All	--
Family Income	--	--	Income low enough such that an individual is eligible for, or recipient of, public assistance Income low enough such that an individual is eligible for, or recipient of, Medicaid	Screening and diagnostic service provided without regard to income. Treatment provided for a fee on a sliding scale	Income low enough such that individual is eligible for, or recipient of Supplemental Income (SSI)	Eligibility for most services depends on income **	--
Nature of Disability	Mentally retarded; gifted and talented; hard of hearing; deaf; speech impaired; severe language disordered; visually handicapped; emotionally disturbed; orthopedically handicapped; hospital/homebound; other health impaired; learning disabled; educationally handicapped; slow learners	Deaf; deaf-blind; hard of hearing; mentally retarded; multi-handicapped; orthopedically impaired; other health impaired seriously emotionally disturbed; specific learning disability; speech impaired visually handicapped	Any physical or mental condition requiring treatment	Prevention, treatment, and after care for specific defects and diseases determined by the State	Must have medically qualifying condition as determined by the SSA for recipients of SSI	--	Physical or mental disability that substantially inhibits the employment of an individual whose employment ability is expected to improve as a result of vocational rehabilitative services

* "SSA" means the Social Security Act.

** However, all persons are eligible for protective services, and information and referral services, regardless of income. Persons are eligible on a group basis for any service, except child day services, if 75% of group are members of families with monthly income of not more than 90% of the state's median income adjusted for family size.

Chart II (continued)

Eligibility Factors	State Education Funds and Funded Services	P.L. 94-142	Title XIX (EPSDT) (SSA)* Early and Periodic Screening, Diagnosis and Treatment	Title V Services Social Security Act	SSI-D (SSA) Supplemental Security Income - Disability	Title XX (SSA) Social Security Act	Vocational Rehabilitation
Residence	"Within the jurisdiction of the school system"	Within the jurisdiction of the school system	--	A consideration taken in determining treatment fee	--	--	--
Other	"As a result (of disability) may require special education and related services"	Disability which adversely affects educational performance and which creates a need for special education and related services	--	--	Program eligibility is based on need for services provided rather than categorical status. The SSA determines eligibility for this program and sends a list of eligible participants to the SSA	--	--

of the child in a residential facility, and the LEA may be forced to bear the expense;

A child in an institution who is ready to move from the institution to a community program may be assigned to a temporary home, at which point the LEA becomes responsible for both the residential and educational costs.

The Commission believes that states are responsible for establishing standards and procedures for assigning costs associated with residential placement. These standards need to address how costs will be assigned given:

- which agency placed the child;
- what was the basis for placement;
- what residential setting was used and whether it was public or private; and
- what types of services were involved (educational or non-educational).

Because the actual basis for placing a handicapped child in a residential program is often unclear, a precise determination of which agency should have been the placing one (i.e., assigned primary responsibility under the state constitution or by the legislature) is frequently avoided. Small school districts with a few severely handicapped children are often faced with potentially burdensome costs and a drain on their total education budget if these children are placed in non-residential local school programs. The frequent absence of community-based residential alternatives is a major factor driving the local school district towards expensive non-public residential programs. Only a few states and intermediate units currently provide local districts with any emergency financial help to deal with this problem.

The Commission believes that the most critical factor in the assignment of costs to an educational agency is whether the placement is made for an educational reason. The concept of educational placement should be a very narrow one—analogueous to the notion of “boarding” rather than “institutionalization.” An educational placement should be a decision to board a child near an educational program which could not feasibly be offered close to a child’s home because of too few students needed to justify such a program. Under such a concept, educational agencies, with local, state, and Federal funds, should bear the total costs associated with the placement. In contrast, when placement is made for (1) health and mental needs, (2) child welfare concerns (e.g., the child’s home is unsuitable), (3) custodial supervision determinations (e.g., the child needs constant

behavioral supervision), or (4) family reasons, the assignment of program and fiscal responsibility is much more complex. Though complex, the Commission believes that states need to address that issue.

The Commission believes that state efforts in this regard are more apt to be successful if the Federal government clarifies:

1. the dual entitlement of children to these services and the flexibility of states to elect coverage; and
2. the obligations of public and non-public agencies under Section 504.

Therefore, the Commission recommends that the fairness and efficiency of current residential placement financing practices be improved through the following means:

State and local education, human service, health, and corrections agencies should develop and adopt state standards for determining the basis for residential placement and for equitably and cost-effectively allocating the educational and non-educational (i.e., related service, room-and-board, and medical care) costs;

The Departments of Education and Health and Human Services should enter into meaningful interagency agreements which clarify responsibilities of state and local education and health and human service areas regarding costs of residential placement. They should also assist states in developing standards for residential placement and the allocation of financial responsibility.

Minority Note on Recommendation II. I disagree with the Commission's statement that changes in the current Federal Regulations implementing P.L. 94-142 are unnecessary.

The Commission's recommendation that each of the fifty state education agencies "articulate its own definition within current law" for related services will not resolve this problem. In fact, the current regulations continue to generate the multiplicity of conflicting interpretations of what professional, non educational services public schools are required to provide.

I wholeheartedly support the legal and moral responsibility of public school districts to provide equal educational opportunity for handicapped children; however, I believe the Federal regulations must be modified in this regard to clearly establish reasonable limits on what non-educational services public schools are expected to provide at the expense of tax payers and/or erosion of regular school programs. By failing to clarify the scope of the mandate as it applies to the educational need of children, the Department of Education abrogates its responsibility to public school districts and causes hundreds

of contradictory judicial interpretations law — at prohibitive costs to both parents of handicapped children and tax payers.

Joan Levy, President, New Trier Board of Education,
Winnetka, Illinois

RECOMMENDATION III
INITIATE ACTION TO
SPREAD COST RISKS
AND BURDENS AMONG
COOPERATING AGENCIES

In order to carry out new approaches to defining and allocating financial responsibility, and so improve the management and use of resources such as those recommended above, the Commission believes that state and local education agencies should initiate two general types of cooperative action which would significantly assist the creation of resource management agreements; multi-district or regional education agency coordination; and cooperative interagency planning and service delivery.

MULTI-DISTRICT OR REGIONAL LEA COORDINATION

Several states are currently using regional cooperative or consortium arrangements to provide special education and related services to handicapped children with low incidence conditions. Other states are using special intermediate educational units at the state or regional level for the same purpose. In addition, some states are currently developing (through intermediate units and cooperative agreements) procedures for shifting the financial responsibility for high-cost related services from individual LEAs to statewide or regionally-established financing systems. The savings in creating consolidated day-school instructional units instead of relying on residential placements appear to be great. Moreover, cooperative arrangements where the consolidated instructional program is located in a regular public school permit the severely handicapped child to receive educational services in the least restrictive environment. Therefore, the Commission recommends that all states which currently do not use consolidated day-school programs create systems of this type, particularly in those areas of the state where the school district population of severely handicapped students is very small.

COOPERATIVE INTERAGENCY AGREEMENTS

The Commission has identified three major strategies used by states to establish and operate cooperative interagency financing and service delivery arrangements: establishment of a "pooled" fiscal base for supporting residential service costs and the costs of unusually expensive related services; creation of interagency coordinating councils or other administrative arrangements to determine service eligibility and finance service costs; and designation of a case management function and responsible agency. Each of these strategies is described separately below.

Establishment of a Trust Fund. The costs of residential placement and of providing unusually expensive related services to handicapped children (or special education services to children with low-incidence handicapping conditions) can be spread equitably among all public education agencies in a region or state, and among all agencies with programmatic responsibility for such services, through a trust fund. Contributions to this fund would be made by state and local education agencies from a variety of sources, including P.L. 92-142 funds and health, mental health, rehabilitation and social services funding authorities.

With a trust fund or "insurance" approach, the state could impose a surcharge on the P.L. 94-142 program, but then insure local districts against costs in excess of some multiplier of the average per pupil expenditure for non-handicapped children (e.g., 2.5 times). Such a trust fund approach could also serve to spread financial responsibility for high-cost related services among all responsible agencies.

Creation of an Interagency Council. One recent state-initiated approach to allocating fiscal and programmatic responsibilities more effectively among state agencies provides a useful example of how interagency coordination can be strengthened. A state coordinating council and local coordinating councils, made up of representatives from education, social services, health, and mental health agencies, are being formed to allocate legal and fiscal responsibility for non-public residential placements. In order to eliminate the bureaucratic impediments customarily found in such interagency arrangements, the state plans to establish a funding pool for residential placements with annual advance contributions from each of the education, health, mental health, and social service agencies. This pool will allow for the separation, both in time and location (local vs. state), of the placement decisions and the allocation of fiscal responsibility. After proper placement has been made by a local council, billing decisions will be made at the state level among multiple entitlements in the manner most favorable to the state (i.e., to the billing sources most open-ended and least demanding of state and local resources).

Case Management. The high-cost handicapped child represents a problem to parents as well as to state and local education, health, mental health, rehabilitation, correctional, and social services agencies. On the one hand, parents find that they have to deal with each agency as a separate entity. On the other, each agency assigns a case manager, performs diagnostic and evaluation procedures, plans services, and delivers them.

In order to reduce the repetitive activities of various agencies and the time and cost burdens placed on parents, several states have turned to an interagency case management approach. In this approach, the agency given responsibility for managing each case assumes responsibility for conducting a single, base-line evaluation of the child, collecting other pertinent information, and coordinating integrated service planning and delivery with parents.

In the Commission's view, the use of the case manager approach, together with the separation of programmatic and fiscal responsibilities, might well remove the hesitancy of local school districts to incorporate all needed or required services in the child's IEP, since they need no longer assume that the school will be fiscally responsible for all these services. Local school districts would be free to act as advocates for all necessary services, and to assist parents and children in obtaining the services of other agencies. States, through their various service agencies and within budgetary constraints, would also be free to assert a priority in funding those services that are objectively needed but fail to pass the test of educational eligibility.

Therefore, in order to implement the interagency approaches described above, the Commission recommends that:

State and local education agencies explore the establishment of trust fund approaches for spreading the costs of providing residential care and unusually high-cost related services for low-incidence handicapped children; and

State educational and human service agencies develop inter-agency councils and integrated service delivery networks which permit one case manager agency to coordinate evaluation, service delivery, and financial management for severely handicapped children (and for other handicapped children with complex service needs).

RECOMMENDATION IV DEVELOP COMMUNITY-BASED RESIDENTIAL PROGRAMS

In the last ten years there has been a rapid growth of community-based facilities both in terms of number of facilities and persons served. The population living in group homes and specialized foster care programs has grown so rapidly that precise data are not always available. However, the last census (1977) estimated the number of residents in community-based facilities at 62,397.

The Commission found that because of the absence of community-based residential alternatives for handicapped children, LEAs often must place children in expensive private residential institutions and assume the full cost of services, including room and board. The cost savings in relying on continued LEA classroom service would be significant.

The professional literature on the best method of providing residential and support services to mentally retarded individuals is growing. Current research on the cost of community-based programs has focused on:

1. the amount of dollars spent on type of residence and program, and
2. the cost benefit associated with these expenditures.

An analysis of where the Federal dollars are spent reveals a lopsided investment in the institution as a residential choice. In 1967, the average cost of maintaining a person in a public facility was approximately \$10,000 a year; in 1981, that average cost increased to over \$28,000. The Commission found variability in the costs of private residential facilities, but notes that some were as much as \$50,000 per year. In a study of costs and services in one region of the country, it was found that in the small community homes, as compared to the institution, (1) services increased to the handicapped individual, and (2) costs for services were less (Jones, 1983).

Therefore, the Commission recommends that states establish financial incentives and program models to help human service agencies develop community-based residential programs. This approach combines a major civil rights objective (avoidance of unnecessary segregation) with a much more cost-effective and desirable method for providing services.

RECOMMENDATION V REDUCE CONFLICT- RELATED EXPENSES

An important element in P.L. 94-142 is the access of parents and their children to a fair and prompt process for resolving disagreements concerning the provision of a free, appropriate public education. The law mandates parental involvement in individual assessments, the development and completion of IEPs, student placements, and in formal hearings. The Commission strongly affirms the importance and the benefit to be derived by both school districts and parents from this safeguard. By its nature, this safeguard does result in administrative costs. Some of these costs, however, could be contained if school districts used procedures designed to prevent or resolve parent-school conflicts, or took steps to eliminate any inefficient aspects of the special education hearing process. Of particular interest are three elements related to the P.L. 94-142 mandate regarding parent-LEA relationships: the presence or absence of mediation procedures, the effectiveness and utilization of SEA complaint procedures, and the training of SEA or LEA hearing officers. Each of these elements is discussed below.

MEDIATION PROCEDURES

Several states have explored both mandatory and voluntary mediation as part of pre-hearing, conciliation efforts. Either of these approaches can be advantageous when not used merely to delay an administrative remedy. Many individuals believe that such efforts significantly reduce the likelihood of formal conflict, and the attendant costs of attorneys' fees, hearing officers' salaries, staff time away from teaching, and lost parental good will.

SEA COMPLAINT INVESTIGATION AND RESOLUTION

Parents are currently offered access to two distinct and separate procedures for resolving disputes with local school systems about rights guaranteed under current law: the "due process" hearing procedures enunciated in P.L. 94-142, and the SEA complaint investigation/resolution procedures mandated by the General Education Provisions Act.

The Commission notes that parents have used the due process hearing procedure to resolve virtually all disputes, in part because of the past unresponsiveness of some SEAs to complaints. The Commission believes that a formal due process hearing may not always be preferable to the speedier and less expensive complaint investigation by the SEA. It notes that current Federal regulations (under the EDGAR regulations) require SEAs to investigate any alleged non-compliance with program requirements. These regulations also establish a specific time frame for investigation (i.e., 60 days) and authorize on-site investigation, as necessary.

TRAINING OF HEARING OFFICERS

The Commission is concerned that hearing officers sometimes make judgments which are beyond the parameters established by law and regulation. Some costs could be reduced if hearing officers were adequately trained with respect to the precise (and limited) nature of their role and provided a range of mediation and dispute resolution techniques.

Therefore, in order to avoid or reduce costs associated with the operation of the procedural safeguard requirements of P.L. 94-142, the Commission recommends that:

LEAs should use a broad range of dispute resolution strategies and techniques in order to contain the high costs of formal hearings and appeals. Such procedures should not serve as barriers to prompt resolution of disputes, but rather as mechanisms to encourage resolution;

SEAs should consider providing mediation services as a part of pre-hearing conciliation efforts;

SEAs should issue formal investigation standards and procedures through which a parent may, without the involvement of lawyers or hearing officers, opt for direct, prompt SEA investigation of any alleged non-compliance; and

SEAs should inform hearing officers of the specific limits of their responsibilities, and seek to improve their dispute resolution capabilities.

RECOMMENDATION VI
USE CURRENT DISCRETIONARY
RESOURCES TO ENCOURAGE
SEAs AND LEAs TO USE MORE
EFFECTIVE ADMINISTRATIVE
POLICIES AND PRACTICES

At present, Congress provides over \$115.3 million in discretionary grants to state and local education agencies through the EHA to support a variety of research, training, and model program development activities. Some of these discretionary funds are currently being used to encourage SEAs and LEAs to make improvements consistent with some of the Commission's previous recommendations (e.g., funding the development of model interagency coordination strategies).

Therefore, the Commission recommends that the Congress and the Department of Education target a portion of current discretionary resources to encourage SEAs and LEAs to develop and implement:

policies which establish more flexible regular education programs;

policies which limit or assign appropriate financial responsibility;

practices which bring into existence the long sought after interagency collaboration;

strategies to encourage the growth of community-based residential alternatives; and

practices which reduce unnecessary conflict-related expenses.



EXPANDED SUPPORT FOR P.L. 94-142 AND EARLY INTERVENTION PROGRAMS

Having reviewed the information available regarding the implementation of P.L. 94-142 and its discretionary grant program during the last five years, and explored the chief financing problems which have accompanied its implementation, the Commission recommends that:

- VII. The Congress should preserve the P.L. 94-142 statute without change, because it is based on sound equity principles and is working well to ensure a free, appropriate public education for all handicapped school-age children.
- VIII. The Congress should increase current P.L. 94-142 (Part B) appropriations, and both Federal and state governments should allocate new funds to support critical intervention strategies for at-risk children below school age.
- IX. The Federal government should fully fund the EHA discretionary program to support research, training, model development, and dissemination programs which together work to ensure that every handicapped child receives an appropriate education.

**RECOMMENDATION VII
SUPPORT FOR THE
P.L. 94-142 MANDATE
SHOULD BE CONTINUED**

Each of these recommendations is discussed below.

The Commission believes that the mandates created by Congress with the passage of P.L. 94-142 are essential to the attainment of equal educational opportunity for millions of handicapped children. Prior to the law's passage, many of these children were effectively barred from school, and most had received only some of the services and protections which together constitute a free, appropriate public education.

Over the past five years, states and local school districts have made considerable progress in providing handicapped children with the educational and related services mandated under P.L. 94-142. Although the Commission recognizes that in many states the impetus for these efforts has come from within the state, it believes that such activities have been greatly strengthened by the passage and ongoing enforcement of P.L. 94-142. The law convincingly demonstrates that school districts, parents, and children all share an investment in the mandate's continued integrity and key procedural requirements. In addition, when the Commission considered alternative strategies, procedures, and initiatives which Federal, state, and local education agencies might take to address current fiscal problems, it found no barrier or impediment to the alternative actions within the current statute or regulations. On the contrary, the Commission found that many of the problems related to the financing of special education and related services stem from inadequate attention to the opportunities which exist within the Act and current regulations.

The Commission believes that current problems related to the financing of special education and related services do not require statutory or major regulatory revision; therefore, it recommends that the Congress and the Department of Education preserve the current P.L. 94-142 regulatory structure without change.

**RECOMMENDATION VIII
INCREASE FEDERAL SUPPORT
FOR P.L. 94-142 AND FOR
EARLY INTERVENTION
PROGRAMS**

Several studies of the implementation of P.L. 94-142 in states and local school districts have documented the inadequacy of Federal support for handicapped education (McDonnell and McLaughlin, 1982; Wright, et al., 1982). The Commission also found that practitioners across the country cite inadequate funding as one of their major problems. In fact, since the passage of P.L. 94-142, the Federal portion of the excess cost of special education has dramatically declined, despite an overall increase in appropriations.

Although few observers expected Congressional appropriations to reach their authorized level of 40 percent of excess cost by 1982, the

current Federal share of less than 11 percent of all handicapped education funding places a heavy burden on states and local districts. The Commission believes that a Congressional call for full funding would be both well received and essential.

Recent cuts in Federal funding of maternal and infant health programs will further increase the number of children needing handicapped education services within the next few years. Research has demonstrated convincingly that well-planned early intervention programs which focus on nutrition, health care, and environmental needs of "at-risk" children can significantly ameliorate and even prevent those children from subsequently becoming handicapped or educationally disadvantaged. In sum, the Commission believes that inadequate Federal funding for P.L. 94-142 programs is now seriously exacerbated by reductions in Federal support of maternal and infant health programs and that the result will impact children, their families and the schools who will be subsequently asked to serve them.

Although the Commission sought to make all of its recommendations within the context of existing resources, and to avoid major new initiatives, it concluded that it would be remiss if it failed to call for increased Federal support of handicapped education programs. Accordingly, the Commission recommends that Congress appropriate sufficient additional funds for the P.L. 94-142, Part B program to bring the Federal share of excess costs close to the 40 percent originally stated in the law. The Commission believes that until the cost of educating handicapped children is spread more equitably across all governmental levels, the Federal government will not be fulfilling its responsibilities for the education of handicapped children.

The Commission also concluded that recent Federal cuts in infant health and social service programs for disadvantaged, or at-risk children, represent a false economy of the most short-sighted kind. The Commission's role was to examine the financing of special education and related services for special needs children. However, it would be folly to ignore the enormous cost effectiveness of early intervention strategies, with their positive impact both on the children and on the future budgets of the public schools which must subsequently provide services to these children.

Therefore, the Commission strongly recommends that Congress significantly strengthen and expand these early intervention programs. It also recommends that the states, based on a strengthened

**RECOMMENDED IX
FOCUS DISCRETIONARY
RESOURCES ON THE
IMPROVEMENT OF
SPECIAL EDUCATION
PROGRAMS**

Federal commitment, designate specific human services agencies (other than education agencies) to coordinate the integrated provision of these services for children *below* school age.

The Federal government plays a critical role in supporting programs aimed at improving the quality of special education programs. These programs support a variety of research, training, demonstration, and dissemination activities involving local and state education agencies. Significant cuts in these funds are proposed for 1984. The Commission believes that these programs are as important today as they ever were. To be specific as to why this is so, it is necessary to recall just where the nation is in the implementation of P.L. 94-142.

State and local educators have successfully identified the vast majority of handicapped children and these children now have access to a free, appropriate public education. As a result of Federal and state regulations and management priorities, most local educators are now complying with the procedural requirements of the law. What is less clear is whether current educational programs and services are *appropriate* for the children who have been identified as handicapped.

There currently appears to be agreement among educators and parent groups that much remains to be done before most handicapped children are receiving an *appropriate* education and the necessary related services. When educators are asked what is preventing the achievement of the "appropriateness" goal, they point to:

- The inadequacy of current diagnostic procedures and limited use of state-of-the-art instructional technologies;
- a lack of well-equipped personnel, including classroom teachers, to handle the range of special needs presented by children, the shortage of specialists (e.g., physical therapists, occupational therapists, and speech clinicians), and the lack of programs to equip parents with the knowledge and skills they need to be full partners in the planning and conduct of their child's education; and
- a limited capacity among Federal and state personnel to provide technical assistance and dissemination programs to school districts.

The responsibility for breaking down these barriers to quality education rests with special education. Some Commission findings have led to remedies that those outside of special education can help

facilitate. However, concern for quality rests with the special education leadership and cannot be relinquished.

It is the Commission's view that current Federal discretionary programs are designed to address just these kinds of needs and that in order for the full intent of P.L. 94-142 to be achieved, an ongoing program of research, training, model development, and dissemination must be continued. Such a program needs to be a balanced one; on the one hand, supporting research and development aimed at increasing knowledge and understanding of specific handicaps, and at developing more effective educational practices, and on the other hand, supporting training and dissemination activities which develop local capability to provide the most appropriate education which current knowledge and practice allow.

The Federal law mandates that each state and local education agency establish and maintain a comprehensive system of personnel development to provide teachers and other school personnel with the knowledge and capacity to deliver quality education to all handicapped children. State and local personnel development programs, whether they be inservice training or teacher preparation, should be based upon and driven by continuing Federal research and demonstration which constitutes the state-of-the-art in education of handicapped children. The interdigitation of Federal research and state personnel development will go a long way toward guaranteeing that the Federal funds invested in education of handicapped children will be effectively and productively used.

RECOMMENDATIONS OF THE COMMISSION ON THE FINANCING OF FREE AND APPROPRIATE EDUCATION FOR SPECIAL NEEDS CHILDREN

- I. SEAs and LEAs should establish more flexible and individualized options in the regular education program.
- II. States should develop standards which define the financial responsibility of LEAs for the related services mandated by P.L. 94-142, and interagency agreements which ensure ready access to the full range of financial resources available under various state and Federal health and human service programs for such mandated services. The Department of Education should enforce the requirements which exist under Section 504.
- III. SEAs and LEAs should initiate interagency coordination at both the state and local levels in order to spread the financial burdens associated with low-incidence handicapping conditions and unusually expensive related services among cooperating agencies.
- IV. States should develop community-based residential programs in coordination with school district special education programs in order to avoid the high costs of unnecessary institutionalization.
- V. SEAs and LEAs should initiate conflict resolution strategies to improve parent-school communication, encourage joint decision-making, and reduce unnecessary conflict-related expenses.
- VI. Congress and the Department of Education should target a portion of current discretionary resources to encourage SEAs and LEAs to use more effective administrative policies and practices.
- VII. The Congress should preserve the P.L. 94-142 statute without change, because it is based on sound equity principles and is working well to ensure a free, appropriate public education for all handicapped school-age children.
- VIII. The Congress should increase current P.L. 94-142 (Part B) appropriations, and both Federal and state governments should allocate new funds to support critical intervention strategies for at-risk children below school age.
- IX. The Federal government should fully fund the EHA discretionary program to support research, training, model development and dissemination programs which together work to ensure that every handicapped child receives an appropriate education.

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